

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 362

Introduced by Senator Torlakson

February 17, 2005

~~An act to add Section 17071.31 to the Education Code, relating to school facilities.~~ *An act to amend Sections 51222 and 51241 of, and to add Article 9.5 (commencing with Section 44620) to Chapter 3 of Part 25 to, the Education Code, relating to physical education, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 362, as amended, Torlakson. ~~School facilities: existing school building capacity.~~ *Physical education.*

Existing law establishes various professional development and training programs for certificated employees of local educational agencies.

This bill would establish the Physical Education Professional Development Program, to be administered by the Superintendent of Public Instruction with the approval of the State Board of Education. Under the program, a school district that maintains kindergarten or any of grades 1 to 8, inclusive, would be eligible to apply for, and to receive, and the Superintendent would be authorized to allocate, incentive funding, upon the submission of a proposal, as specified, to provide training in physical education to no more than one teacher at the school district, through professional development programs conducted by institutions of higher education or by a provider of

training approved by the department. The bill would appropriate an unspecified sum for these purposes.

Existing law requires a pupil in grades 7 to 12, inclusive, to attend physical education courses for no less than 400 minutes each 10 schooldays.

This bill would define a physical education class as one in which each pupil is required to actively participate.

Existing law permits a pupil in grade 10, 11, or 12 to be excused from physical education classes, as provided, in order to participate in automobile driver training.

This bill would delete those provisions.

Existing law authorizes the governing board of a school district and the office of the county superintendent of schools to grant a permanent exemption from courses in physical education if the pupil complies with one of several criteria, including, among others, that the pupil is 16 years of age or older and has been enrolled in grade 10 for one academic year or longer.

This bill would delete that exemption with respect to a pupil who is 16 years of age or older and has been enrolled in grade 10 for one academic year or longer, and would make conforming changes.

~~Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.~~

~~Existing law provides that eligibility for funding under these provisions is, in part, determined by calculating the existing school building capacity of a school district, and provides that the number of portable classrooms that exceed 25% of the permanent classrooms, reduced by the number of portable classrooms used as interim housing for modernization projects, are excluded from that capacity.~~

~~This bill would provide that if the State Allocation Board requires a school district to reestablish its existing school building capacity after the school district has determined the existing school building capacity, the State Allocation Board is required to exclude certain portable classrooms from that calculation, as specified.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) A lack of adequate physical activity and appropriate*
4 *nutrition has greatly contributed to the epidemic levels of obesity*
5 *found in California.*

6 *(b) Obesity is a key risk factor associated with a number of*
7 *health problems including heart disease, diabetes, some cancers,*
8 *hypertension, gallbladder disease, musculoskeletal disorders,*
9 *and mental health.*

10 *(c) According to the State Department of Health Services, the*
11 *costs of obesity in California are estimated to equal more than*
12 *\$21.7 billion in health care costs, workers' compensation costs,*
13 *and lost productivity.*

14 *(d) According to the State Department of Education, healthy,*
15 *active, and well nourished children are more likely to attend*
16 *school and are more prepared and motivated to learn.*

17 *(e) Healthy children are also more likely to grow up to be*
18 *healthy adults and are less likely to develop costly and harmful*
19 *health problems.*

20 *(f) California's youth have the potential to advance the*
21 *generational change necessary for reversing and preventing the*
22 *devastating consequences of such an epidemic.*

23 *(g) Physical education can provide necessary physical activity*
24 *while motivating a child to maintain healthy eating habits and to*
25 *engage in regular physical activity as an aspect of one's lifestyle.*

26 *(h) The State Board of Education has recently adopted content*
27 *standards for physical education, and, to the extent resources are*
28 *available, it is the intent of the Legislature to provide physical*
29 *education teachers with appropriate training that aligns with*
30 *these standards.*

31 *SEC. 2. Article 9.5 (commencing with Section 44620) is*
32 *added to Chapter 3 of Part 25 of the Education Code, to read:*

33
34 *Article 9.5. The Physical Education Professional*
35 *Development Program*

36
37 44620. (a) *The Physical Education Professional*
38 *Development Program is hereby established, and shall be*

1 administered by the Superintendent with the approval of the State
2 Board of Education.

3 (b) It is the intent of the Legislature in enacting this article to
4 provide professional development in physical education for no
5 more than one teacher at each local educational agency that
6 maintains kindergarten or any of grades 1 to 8, inclusive.

7 (c) This program is intended to serve teachers employed in
8 public schools for the purpose of teaching physical education to
9 pupils in kindergarten or any of grades 1 to 8, inclusive.

10 44621. As a condition of receipt of funds under the program,
11 a local educational agency shall submit to the State Board of
12 Education a certified assurance, signed by the appropriate local
13 educational agency official and approved by the governing body
14 of the agency, that contains its proposal that clearly
15 demonstrates that the local educational agency's training
16 curriculum was approved by the state board or that the local
17 educational agency contracted with a provider whose training
18 curriculum was approved by the state board.

19 44622. The State Board of Education shall only approve
20 training curriculum that is consistent with state-adopted model
21 content standards for physical education and with the curriculum
22 frameworks on physical education for kindergarten and grades 1
23 to 8, inclusive, that are adopted by the state board.

24 44623. A local educational agency may receive up to \$____,
25 and no less than \$____, for the training of the teacher who
26 receives professional development on physical education under
27 the program.

28 44624. The sum of ____ is hereby appropriated from the
29 General Fund to the department for purposes of the program. Of
30 the amount appropriated, the sum of ____ is available for
31 expenditure in the 2006-07 fiscal year, and the sum of ____ is
32 available for expenditure in the 2007-08 fiscal year.

33 44625. The State Board shall authorize the Superintendent to
34 prepare, and the state board shall adopt, regulations for the
35 implementation and monitoring of the program.

36 SEC. 3. Section 51222 of the Education Code is amended to
37 read:

38 51222. (a) ~~All pupils~~ A pupil, except ~~pupils~~ a pupil excused
39 or exempted pursuant to Section 51241, shall be required to
40 attend ~~upon the courses of~~ a physical education class for a total

1 period of time of not less than 400 minutes each 10 schooldays.
2 ~~Any pupil may be excused from physical education classes~~
3 ~~during one of grades 10, 11, or 12 for not to exceed 24 clock~~
4 ~~hours in order to participate in automobile driver training. Such~~
5 ~~pupil who is excused from physical education classes to enroll in~~
6 ~~driver training shall attend upon a minimum of 7,000 minutes of~~
7 ~~physical education instruction during such school year. A~~
8 ~~physical education class is one in which each pupil is required to~~
9 ~~actively participate.~~

10 (b) The governing board of ~~each~~ a school district that
11 maintains a high school and that elects to exempt ~~pupils~~ a pupil
12 from required attendance in physical education ~~courses~~ classes
13 pursuant to ~~paragraph (1) or (2) or both of~~ subdivision (b) of
14 Section 51241 shall offer ~~those pupils so exempted~~ that pupil a
15 variety of elective physical education ~~courses~~ classes of not less
16 than 400 minutes each 10 schooldays.

17 SEC. 4. Section 51241 of the Education Code, as amended by
18 Section 2 of Chapter 459 of the Statutes of 2003, is amended to
19 read:

20 51241. (a) The governing board of a school district or the
21 office of the county superintendent of schools of a county may
22 grant temporary exemption to a pupil from courses in physical
23 education, if the pupil is ~~one~~ either of the following:

24 (1) Ill or injured and a modified program to meet the needs of
25 the pupil cannot be provided.

26 (2) Enrolled for one-half, or less, of the *course* work normally
27 required of full-time pupils.

28 (b) The governing board of a school district or the office of the
29 county superintendent of schools ~~of a county~~ may, with the
30 consent of a pupil, grant the pupil exemption from courses in
31 physical education for two years any time during grades 10 to 12,
32 inclusive.

33 (c) The governing board of a school district or the office of the
34 county superintendent of ~~a county~~ schools may grant permanent
35 exemption from courses in physical education if the pupil
36 complies with any one of the following:

37 ~~(1) Is 16 years of age or older and has been enrolled in the~~
38 ~~10th grade for one academic year or longer.~~

39 ~~(2)~~

40 (1) Is enrolled as a postgraduate pupil.

1 ~~(3)~~

2 (2) Is enrolled in a juvenile home, ranch, camp, or forestry
3 camp school where pupils are scheduled for recreation and
4 exercise pursuant to the requirements of Section 4346 of Title 15
5 of the California Code of Regulations.

6 (d) A pupil exempted under subdivision (b) ~~or paragraph (1) of~~
7 ~~subdivision (c)~~ may not be permitted to attend fewer total hours
8 of courses and classes if he or she elects not to enroll in a
9 physical education course than he or she would have attended if
10 he or she had elected to enroll in a physical education course.

11 (e) Notwithstanding any other law, the governing board of a
12 school district may administer to pupils in grades 10 to 12,
13 inclusive, the physical performance test required in 9th grade
14 pursuant to Section 60800.

15 (f) This section shall remain in effect only until June 30, 2007,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before June 30, 2007, deletes or extends that date.

18 *SEC. 5. Section 51241 of the Education Code, as added by*
19 *Section 3 of Chapter 459 of the Statutes of 2003, is amended to*
20 *read:*

21 51241. (a) The governing board of a school district or the
22 office of the county superintendent of schools of a county may
23 grant temporary exemption to a pupil from courses in physical
24 education, if the pupil is ~~one~~ *either* of the following:

25 (1) Ill or injured and a modified program to meet the needs of
26 the pupil cannot be provided.

27 (2) Enrolled for one-half, or less, of the work normally
28 required of full-time pupils.

29 (b) (1) The governing board of a school district or the office
30 of the county superintendent of schools ~~of a county~~ may, with the
31 consent of a pupil, if the pupil has passed the physical
32 performance test administered in the 9th grade pursuant to
33 Section 60800, grant the pupil exemption from courses in
34 physical education for two years any time during grades 10 to 12,
35 inclusive.

36 (2) Pursuant to Sections 51210, 51220, and 51222, physical
37 education is required to be offered to all pupils, and schools are,
38 therefore, required to provide adequate facilities and instructional
39 resources for that instruction. In this regard, paragraph (1) shall
40 be implemented in a manner that does not create a new program

1 or impose a higher level of service on a local educational agency.
2 Paragraph (1) does not mandate any overall increase in staffing
3 or instructional time because, pursuant to subdivision (d), pupils
4 are not permitted to attend fewer total hours of class if they do
5 not enroll in physical education. Paragraph (1) does not mandate
6 any new costs because any additional physical education
7 instruction that a local educational agency provides may be
8 accomplished during the existing instructional day, with existing
9 facilities. Paragraph (1) does not prevent a local educational
10 agency from implementing any other temporary or permanent
11 exemption authorized by this section.

12 (c) The governing board of a school district or the office of the
13 county superintendent of ~~a county schools~~ may grant permanent
14 exemption from courses in physical education if the pupil
15 complies with ~~any one~~ *either* of the following:

16 ~~(1) Is 16 years of age or older and has been enrolled in the~~
17 ~~10th grade for one academic year or longer.~~

18 ~~(2)~~

19 ~~(1)~~ Is enrolled as a postgraduate pupil.

20 ~~(3)~~

21 ~~(2)~~ Is enrolled in a juvenile home, ranch, camp, or forestry
22 camp school where pupils are scheduled for recreation and
23 exercise pursuant to the requirements of Section 4346 of Title 15
24 of the California Code of Regulations.

25 (d) A pupil exempted under paragraph (1) of subdivision (b) ~~or~~
26 ~~paragraph (1) of subdivision (c)~~ may not attend fewer total hours
27 of courses and classes if he or she elects not to enroll in a
28 physical education course than he or she would have attended if
29 he or she had elected to enroll in a physical education course.

30 (e) Notwithstanding any other law, the governing board of a
31 school district may also administer to pupils in grades 10 to 12,
32 inclusive, the physical performance test required in 9th grade
33 pursuant to Section 60800. A pupil who passes this physical
34 performance test in any of grades 10 to 12, inclusive, is eligible
35 for an exemption pursuant to subdivision (b).

36 (f) This section shall become operative on July 1, 2007.

37 ~~SECTION 1. Section 17071.31 is added to the Education~~
38 ~~Code, to read:~~

39 ~~17071.31. If the board requires a school district to reestablish~~
40 ~~its existing school building capacity after an applicant school~~

- 1 ~~district has determined the existing school building capacity~~
2 ~~pursuant to subdivision (a) of Section 17071.10, all of the~~
3 ~~following shall be excluded from the existing school building~~
4 ~~capacity of that school for the purpose of determining the~~
5 ~~ongoing eligibility of the school district:~~
6 ~~(a) A portable classroom described by subdivision (a) or (b) of~~
7 ~~Section 17071.30.~~
8 ~~(b) A portable classroom that has been in use for at least 40~~
9 ~~years.~~
10 ~~(c) A portable classroom for which the costs of modernization~~
11 ~~would exceed 50 percent of the cost to replace the classroom.~~
12 ~~(d) A portable classroom that a school district has replaced~~
13 ~~utilizing funds other than those provided pursuant to this chapter.~~